

**PATENT****IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/607,923
Filing Date: June 27, 2003
Applicant: Helmut Bentivoglio and Volker Zipf
Group Art Unit: 2875
Examiner: Ismael Negron
Title: PROXIMITY SWITCH FOR AUTOMOTIVE INTERIOR MIRROR MODULE
Attorney Docket: SCH-00069

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DECLARATION UNDER 37 CFR §132

Sir:

VOLKER ZIPF (Please print your name) declares as follows:

1. I am the inventor of the subject matter of the above identified patent application.

2. I received a Dipl. Ing (FH) from
Fachhochschule ESSLINGEN - University of Applied Sciences

(Please fill in your educational background, i.e., degrees and what institution you received them from).

3. I have been employed with Schefenacker Vision Systems Germany GmbH & Co. KG for the past 4 years working in electronic development department. (Please fill in the areas in which you have worked in at Schefenacker Vision Systems). My working life has been spent in the electronic development. (Please fill

In the areas in which you have worked prior to working at Schefenacker Vision Systems). I am listed as an inventor on the following patent(s) US 11/043402, US 6825420, DE 10338398 relating to MIRROR AND TAILLIGHTS DEVELOPMENT.

4. I have reviewed the Examiner's Final Office Action mailed on February 17, 2005, and U.S. Patent No. 5,880,538 issued to Schulz (hereafter the '538 patent) and U.S. Patent No. 5,820,245 issued to Desmond (hereafter the '245 patent) which were used as a basis for rejecting all pending claims in the application.

5. After reviewing the '538 patent, the '245 patent, and the reasoning for the rejection of claims 11-23 under 35 USC §103(a) as set forth in the Final Office Action, I conclude that this rejection is not proper.

6. The '538 patent discloses an actuating device for exterior automotive control devices, such as door locks and windshield wipers. The actuating device is a contact or proximity switching mechanism that is switch by non-mechanical means. Col. 3, Lines 7-9. The '538 patent describes the actuating device being activated by a person approaching the switch that is located in the automobile's door handle in order to unlock the door. Col. 3, Lines 30-34. The '538 patent also describes the actuating device being used to activate an automobile's windshield wipers when water approaches the device. Col. 4, Lines 62-64.

7. The '245 patent discloses an interior rearview mirror with a light that is controlled by a mechanical switch that is in the mirror housing. Col. 1, Lines 25-30, 59-60 and Col. 2, Lines 26-30. Figure 9 of the '245 patent depicts mechanical switches (27) and (29) which are used to operate the lamp assemblies. Figure 9 also shows mechanical switch (28) which is used to operate the mirror and the LED.

8. My invention claims a switching device for an interior mirror module. The switching device is activated without touching a mechanical switch by having a sensor

in the mirror housing that is connected to internal evaluation electronics. The sensor activates the switch when it detects a non-metallic object moving towards the sensor.

9. The Final Office Action at ¶ 3 indicates that it would have been obvious to one skilled in the art at the time the claimed invention was made to combine the non-contact switch of the '538 patent with the vehicle illumination device of the '245 patent.

10. I respectfully disagree that one of ordinary skill in the art at the time the invention was made would be motivated to modify the manual switch of the '245 patent with the switch in the '538 patent. The combined teachings of the '538 and '245 patents fail to teach, suggest or motivate placing a switching device based upon the approach of a non-metallic object toward a sensor for use in an interior mirror module. Being an individual who is skilled in the area of automotive control devices I profess that the proposed combination of the references would not be obvious. Moreover, one of ordinary skill in the art at the time of the invention was made would not be motivated to place the '538 switch inside a mirror housing.

12. I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-referenced application or any patent issuing thereon.

Date: 8.8.05

By: Volker Zipf
(Signature)

VOLKER ZIPF
(Please print name)